

REMARKS/ARGUMENTS

Claim 128 has been amended to overcome the 35 U.S.C. § 112 objections, as required by the Examiner.

Amended Independent Claim 128 covers the elected embodiment of Figure 15 and is generic to the other embodiments shown in Figures 1, 6, 8, 9 and 11. New Dependent Claim 233 is dependent on Independent Claim 128 and covers the embodiment in Figure 15. New Dependent Claims 234 and 235 are dependent on Independent Claim 128 and covers the embodiment in Figure 4. New Dependent Claim 236 is dependent on Independent Claim 128 and covers the embodiment in Figure 1. New Dependent Claims 237 and 238 are dependent on Independent Claim 128 and covers the embodiment in Figure 6. New Dependent Claims 239 and 240 are dependent on Independent Claim 128 and covers the embodiment in Figure 8. New Dependent Claims 241 to 244 are dependent on Independent Claim 128 and covers the embodiment in Figure 9. New Dependent Claim 245 is dependent on Independent Claim 128 and covers the embodiment in Figure 11.

See also EXHIBIT A attached hereto. EXHIBIT A shows the fishing rod holder assembly in use. The embodiment as shown is that of a U-shaped fishing rod holder support stanchion with two rod holders permanently attached at fixed positions to each vertical holding post and the anchoring post being mounted within a flush mounted rod holder in the gunwale of a boat.

The rejection of Claims 128 through 135 as being anticipated based upon the TADAKI 'JP41557 Japanese patent under 35 U.S.C. § 102(b) is respectfully traversed. Further, the rejection of Claims 128 and 132 to 134 as being obvious and unpatentable based upon the TADAKI 'JP41557 Japanese patent in view of the HAWIE '579 U.S. patent under 35 U.S.C. §103(a) is also respectfully traversed.

The TADAKI 'JP41557 patent discloses a fishing rod holder for a single fishing rod that is readily portable because of its light weight and is simple to handle during use. The fishing rod holder includes an anchoring post, an angled crossbar member and opposing vertical holding posts. Each vertical holding post includes a fishing rod clamping member wherein the two clamping members cooperate to hold a single fishing rod.

The HAWIE '579 patent discloses a multi-rod holder and alignment device which is removably-securable in a non-rotating position within a conventional rod holder mounted on a boat. The rod holder device has a support stem having two or more lower alignment slots, and two or more upper rod-holder tubes which extend substantially vertically, relative to the support stem, each tube being designed to receive a fishing rod handle and having alignment pins for securing the fishing rod against rotation.

The TADAKI 'JP41577 patent and the HAWIE '579 patent, even when combined, **do not disclose or teach** the following elements of Amended Independent Claim 128 for a fishing rod holder assembly for holding one or more fishing rods therein:

a) **two or more fishing rod holders each** for holding a fishing rod therein;

- b) **a U-shaped** fishing rod holder support stanchion member including an anchoring post and horizontal crossbar member connected thereto **in an offset manner**; and
- c) **a first attachment element having at least one end shaped at an angle relative to the vertical axis for attaching the fishing rod holder** to the first **upwardly extending** holding post of the fishing rod holder support stanchion member and **a second attachment element having at least one end shaped at an angle relative to the vertical axis for attaching the fishing rod holder** to the second **upwardly extending** holding post of the fishing rod holder support stanchion member for forming a fishing rod holder assembly.

The TADAKI patent discloses a single fishing rod holder that has **two clamps** which are attached to the handle section of the single fishing rod, as shown in Figures 8, 9 and 11 of TADAKI's drawings. There is **no teaching of two or more fishing rod holders each** for holding two fishing rods therein, as claimed in the present invention.

The HAWIE patent discloses a storage device for holding multiple fishing rods. HAWIE's device is **not used** for active fishing or trolling. There is **no teaching of two or more fishing rod holders each** for holding a fishing rod therein for actively trolling or fishing by the user, as claimed in the present invention.

There is **no teaching** in the TADAKI patent of its anchoring post (46) being connected to the crossbar member (42) **in an offset manner**. Further, TADAKI's crossbar member (42) is **not oriented** in a **horizontal manner** but is angled on an incline relative to the Y-axis, as shown in TADAKI's drawings of Figures 8, 9 and 11.

Also, there is **no teaching** in the TADAKI patent of having **first and second attachment elements** connecting its rod holding clamps (41) (43) to TADAKI's first and second holding posts. As shown in TADAKI's device, each of its rod holding clamps (41) and (43) are welded to the distal edge of its first and second holding posts in a horizontal plane. Further, TADAKI's device **does not have** attachment elements, as claimed in the present invention.

Therefore, Independent Claim 128 as Amended is patentable and should be allowed.

As to Dependent Claim 129, the TADAKI 'JP41577 patent, and the HAWIE '579 patent, even when combined, **do not disclose or teach** the following elements of Amended Dependent Claim 129 for the configuration of the support stanchion member:

a) the anchoring post is connected to the horizontal crossbar member in a perpendicular relationship to the horizontal crossbar member.

There is **no teaching** in the TADAKI patent of its anchoring post (46) relative to its crossbar member (42) having a **perpendicular** orientation. As shown in TADAKI's drawings of Figures 8, 9 and 11, its anchoring post (46) **does not have** a perpendicular orientation relative to its crossbar member (42).

Therefore, Dependent Claim 129 as Amended is patentable and should be allowed.

As to Dependent Claim 133, the TADAKI 'JP41577 patent and the HAWIE '579 patent, even when combined, **do not disclose or teach** the following elements of Amended Dependent Claim 133 for the structure of the support stanchion member:

a) the fishing rod holder stanchion member is made of **tubular construction to form the unitary constructed unit.**

There is **no teaching** in the TADAKI patent that its single fishing rod holder for holding one fishing rod is made of **tubular construction** to form **the unitary (single) constructed unit.** As shown in TADAKI's drawings of Figures 7 through 11, its rod holding clamps (41) and (43) **are not** tubular rods. Further, its anchoring post (47)(53) are multiple components (at least two rods being joined together by hinge elements) and **is not** a unitary constructed unit, as claimed in the present invention.

Therefore, Dependent Claim 133 as Amended is patentable and should be allowed.

As to Dependent Claim 134, the TADAKI 'JP41577 patent and the HAWIE '579 patent, even when combined, **do not disclose or teach** the following elements of amended Dependent Claim 134 for the structure of the support stanchion member:

a) **the tubular construction** of the fishing rod holder support stanchion member is formed by welding **to form the unitary constructed unit.**

There is **no teaching** in the TADAKI patent that its single fishing rod holder for holding one fishing rod is made of tubular construction to form the unitary (single) constructed unit that was done by welding of the tubular sections together. As previously shown in TADAKI's drawings of Figures 7 through 11, tubular rods are not used in the construction and assembly of its fishing rod holder.

Therefore, Dependent Claim 134 is patentable as Amended and should be allowed.

As to Dependent Claim 135, the TADAKI 'JP41577 patent and the HAWIE '579 patent, even when combined, **do not disclose or teach** the following elements of Amended Dependent Claim 135 for the structure of the support stanchion member:

a) **the tubular construction** of the fishing rod holder support stanchion member is formed by tubular bending **to form the unitary construction unit**.

There is **no teaching** in the TADAKI patent that its single fishing rod holder for holding one fishing rod is made of tubular construction being configured by tubular bending to form the unitary (single) constructed unit. As previously shown in TADAKI's drawings of Figures 7 through 11, tubular rods are not used in the construction and assembly of its fishing rod holder.

Therefore, Dependent Claim 135 is patentable as Amended and should be allowed.

Applicant elected the embodiment shown in Figure 15. It is submitted that New Independent Claim 246, as amended, is allowable and covers the elected embodiment of Figure 15. In addition, allowable Claim 246 is generic and a linking claim and also covers the embodiments shown in Figures 1, 6, 8, 9 and 11. Accordingly, Dependent Claims 247 to 267 cover these additional embodiments and they should also be allowed because they depend from an allowable **Generic Claim 246**.

New Independent Claim 246 is generic and is a linking claim to Claim 128, and covers the embodiments shown in Figures 1, 6, 8, 9, 11 and 15. New Dependent Claims 247, 248 and 249 cover the embodiments shown in Figures 1 through 5. New Dependent Claims 250 and 251 cover the embodiment shown in Figure 6. New Dependent Claim 252 covers the embodiment shown in Figure 1. New Dependent Claims 254 and 255 cover the embodiment shown in Figure 8. New Dependent Claims 256 to 259 cover the embodiment shown in Figure 9. New Dependent Claim 260 covers the embodiment shown in Figure 10.

The TADAKI 'JP41577 patent and the HAWIE '579 patent, even when combined, **do not disclose or teach** the following elements of New Independent Claim 246 for a fishing rod holder support stanchion member:

a) a U-shaped fishing rod holder support stanchion member including an anchoring post and a **horizontal crossbar member** connected thereto in **an offset manner**; and

There is **no teaching** in the TAKAKI patent of its anchoring post (46) being connected to the crossbar member (42) **in an offset manner**. Further, TADAKI's crossbar member (42) is **not oriented** in a **horizontal manner** but is inclined on an angle relative to the Y-axis, as shown in TADAKI's drawings of Figures 8, 9 and 11.

There is **no teaching** in the HAWIE patent of its anchoring post (11) being connected to the crossbar member **in an offset manner**. HAWIE's device **does not** have a crossbar member.

Therefore, New Independent Claim 246 is patentable, generic and linking, and should be allowed, as well as the Claims which depend from Claim 246.

CONCLUSION


Applicant elected the embodiment shown in Figure 15. It is submitted that Independent Claim 128, as amended, is allowable and covers the elected embodiment of Figure 15. In addition, allowable Claim 128 is generic and also covers the embodiments shown in Figures 1, 6, 8, 9 and 11. Accordingly, Dependent Claims 129 to 135 and Dependent Claims 233 to 245 cover these additional embodiments and they should also be allowed because they depend from an allowable **Generic Claim 128**.

Applicant elected the embodiment shown in figure 15. It is submitted that New Independent Claim 246, as amended, is allowable and covers the elected embodiment of Figure 15. In addition, allowable Claim 246 is generic and a linking claim and also covers the embodiments shown in Figures 1, 6, 8, 9 and 11. Accordingly, Dependent Claims 247 to 267 cover these additional embodiments and they should also be allowed because they depend from an allowable **Generic Claim 246**.

Therefore, as stated above, the prior art references of TADAKI and HAWIE, even if combined, **do not teach or disclose** the claimed features of Amended Independent Claim 128 and the Claims which depend therefrom. Further, even if the prior art references of TADAKI and HAWIE are combined, they **do not teach or disclose** the claimed features of Independent Claim 246 and the Claims which depend therefrom. For these reasons, it is respectfully submitted that applicant's Claims 128 to 135 and Claims 233 to 267 should be allowed based upon the allowable **Generic Claims** 128 and 246.

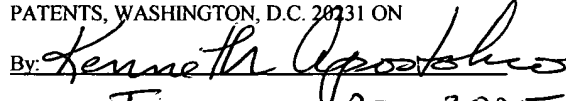
Respectfully submitted,

EZRA SUTTON, P.A.


EZRA SUTTON
Reg. No. 25,770

Plaza 9, 900 Route 9
Woodbridge, New Jersey 07095
(732) 634-3520

I CERTIFY THAT THIS CORRESPONDENCE IS
BEING DEPOSITED WITH THE UNITED STATES POSTAL
SERVICE AS FIRST-CLASS MAIL IN AN ENVELOPE
ADDRESSED TO: ASSISTANT COMMISSIONER FOR
PATENTS, WASHINGTON, D.C. 20531 ON

By: 
Date: January 20, 2005

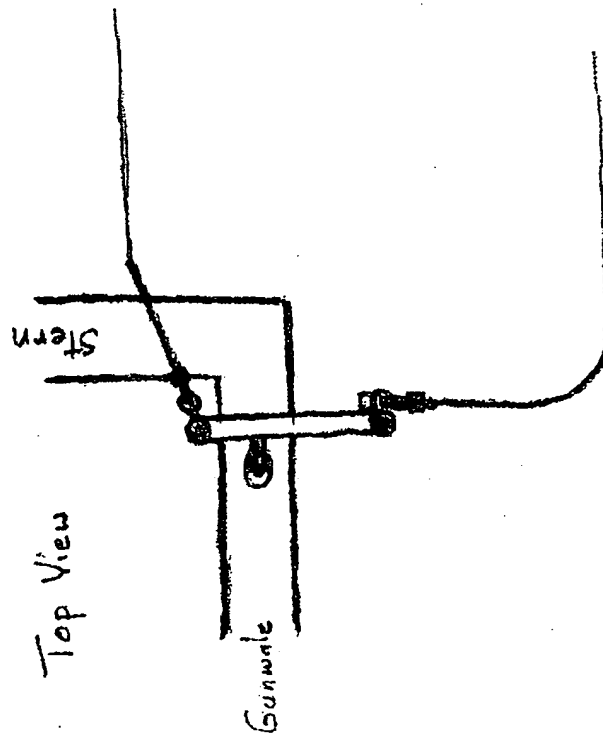
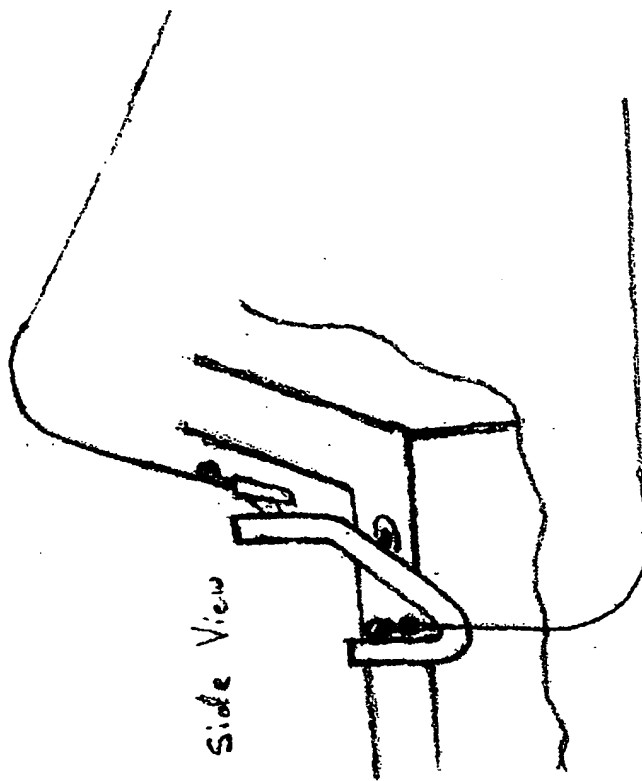


EXHIBIT A